

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

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|------------------------------------|---|-------------------------|
| ROSANN M. WILKS, et al. |) | |
| on behalf of herself and all other |) | |
| similarly situated plaintiffs |) | |
| |) | Civil Action: 3-02-0837 |
| Plaintiffs, |) | |
| |) | JUDGE TRAUGER |
| v. |) | JUDGE KNOWLES |
| |) | |
| THE PEP BOYS |) | |
| |) | (DEMAND FOR JURY TRIAL) |
| Defendant. |) | |
| |) | |

PLAINTIFFS' CROSS MOTION FOR PARTIAL SUMMARY JUDGMENT

In addition to opposing Defendant's Motion for Partial Summary Judgment, plaintiffs respectfully move this Court to enter Partial Summary Judgment in plaintiffs' favor concerning whether Pep Boys' flat rate employees are exempt from the Fair Labor Standards Act's ("FLSA") overtime pay provisions. Additionally, since Pep Boys does not compensate its flat rate employees pursuant to a bona fide commission system, this Court should also rule as a matter of law concerning the legality of Pep Boys' compensation system for its flat rate employees.

DATE: May 4, 2006

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I certify that Plaintiffs' Motion for Summary Judgment was served on May 4,
2006 electronic service to defendant's counsel of record:

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